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3 District of Arizona

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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE DISTRICT OF ARIZONA

10 United States of America,  
11  
12 Plaintiff,  
13 vs.  
14 Frank Capri,  
15 Defendant.

No. CR- 20-00096-001-PHX-JJT

**UNITED STATES' RESPONSE TO  
DEFENDANT'S MOTION FOR  
MODIFICATION OR CLARIFICATION  
OF RELEASE CONDITIONS**

16 The United States responds to Defendant's request for a modification or clarification  
17 of special condition 7, which restricts him from engaging in "any occupation in which you  
18 are responsible for the management of financial transactions or fiduciary responsibility."  
19 (Docs. 321, 340.) The government has conferred with the probation officer in this case,  
20 Joseph Wagoner, and believes that an accommodation may be made so Defendant is able  
21 to work in automotive *sales*—while avoiding automotive finance.

22 Mr. Wagoner recounted that Defendant requested to work as a "financial manager"  
23 at a car dealership, and Mr. Wagoner denied that request. Defendant did not request to  
24 work solely in automotive sales. Upon reading the instant motion, Mr. Wagoner spoke to  
25 Defendant, who said that he would like to work in auto sales. Related, Defendant also  
26 reported that he has applied for Social Security disability benefits.

27 To approve Defendant's request to be employed in auto sales, Mr. Wagoner needs  
28 to know the identity of the employer and confirm with the employer (1) its knowledge of

1 Defendant's current criminal convictions, and (2) the scope of the *sales* position to be filled  
2 by Defendant and specifically that it does not include anything more than what Defendant  
3 described in his motion as "[a]t most . . . taking a credit application – which the customer  
4 has completed – walking it over to the finance department, and then conveying the credit  
5 manager's decision to the customer." (Doc. 340 at 2.)

6 Accordingly, it appears that no modification or clarification of the condition at issue  
7 is needed currently. The government requests that, at most, this Court direct Defendant to  
8 provide Mr. Wagoner with any information he needs to complete to properly evaluate his  
9 request for employment in an automotive sales position.

10 Respectfully submitted this 25<sup>th</sup> day of January, 2024.

11 GARY M. RESTAINO  
12 United States Attorney  
District of Arizona

13 s/ Monica B. Klapper  
14 MONICA B. KLAPPER  
Assistant U.S. Attorney

15 **CERTIFICATE OF SERVICE**

16 I hereby certify that on January 25, 2024, I electronically transmitted the attached  
17 United States' Supplemental Restitution Memorandum for electronic filing and e-mailed a  
18 copy to the following CM/ECF registrant:

19  
20 D. Stephen Wallin  
21 Attorney for Defendant

22 s/Heidi Kinwald  
23 U.S. Attorney's Office